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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,589	04/22/2004	Timothy E. McCue		5564

7590 03/22/2005
Joseph E. Funk
PO Box 661
Londonderry, NH 03053

EXAMINER

JACKSON, ANDRE L

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,589

Applicant(s)

MCCUE ET AL

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 9 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 398,636 to Mallory. Mallory discloses an adjustable hinge for mounting a door to a fixed structure, comprising;

A first plate (g) that is attached to the fixed member; a second plate (a) that is attached to the door; a hinge pin (f); and a first connecting member (m, n) associated with the first plate and having a hole through which the hinge pin passes to pivotally attach the first connecting member to the first plate, the first connecting member having an extension (h); a second connecting member (b) associated with the second plate and having a hole through which the first connecting member extension passes; wherein the hinge pin is used as an adjustment to move the first connecting member along the hinge pin and thereby adjust the position of the door with respect to the fixed member in the vertical direction; and wherein the position of the second connecting member is changed with respect to the first connecting member extension to thereby adjust the position of the door with respect to the fixed member in a horizontal direction.

As to claims 2, 6 and 14, the hinge pin defines a longitudinal axis and is threaded (e), the hole or bore of the first connecting member includes a threaded section corresponding to

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threaded hinge pin (Fig. 1), where rotation of the hinge pin about its longitudinal axis provides the vertical adjustment of the door.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 7, 8, 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mallory in view of USPN 527,685 to Haege. Mallory discloses that the connection member extension is a threaded bolt, but Mallory does not disclose mechanical fasteners in the form of nuts threaded onto the extension at either side of the second connecting member thereof to prevent unwanted movement of the second connecting member as claimed. Haege teaches a gate hinge comprising a first plate (5) that is attached to a post (3), a second plate (13) that is attached to a gate (1), a hinge pin (5a) and a first connecting member (8) associated with the first plate and having a hole through which the hinge pin passes. The first connecting member has an extension (7). A second connecting member (11) associated with the second plate and having a hole through which the first connecting member extension passes. First and second nuts (10) are disposed onto the extension at either side of the second connecting member and can be adjusted relative to the connecting member. Therefore, it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to modify threaded extension of Mallory to

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incorporate the gate hinge as taught by Haege to afford a simple and quick adjustment hinge assembly which maintains proper working interval between a gate/door and a fixed structure.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In particular, Rochester, Kirschner and Nakamoto et al disclose adjustable hinge devices useable with a door, gate or panel including horizontal and vertical adjustment components. These references may be used singly or in combination thereof to meet the limitations of applicant's claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276.

The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALJ

André L. Jackson
Patent Examiner
AU 3677


ROBERT J. SANDY
PRIMARY EXAMINER